

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MONTGOMERY CARL AKERS,

Plaintiff,

v.

KATHERINE N SIEREVELD,

Defendant.

Case No. [17-cv-03340-EMC](#)

ORDER OF DISMISSAL

On October 19, 2020, the Court ordered Plaintiff, Montgomery Carl Akers, to show cause by November 27, 2020, why this action should not be dismissed under 28 U.S.C. § 1915(g), which provides that a prisoner may not bring a civil action *in forma pauperis* under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). The order identified seven prior dismissals that appeared to count under § 1915(g), stated that Plaintiff did not appear to be under imminent danger of serious physical injury when he filed the complaint, and ordered Plaintiff to show cause why pauper status should not be denied and the action should not be dismissed. The order further stated that Plaintiff also could avoid dismissal by paying the filing fee by the deadline.

Plaintiff did not file any response and the deadline by which to do so has passed.

Each of the seven earlier dismissals identified in the order to show cause counts as a dismissal for § 1915(g) purposes. Plaintiff did not pay the filing fee, did not show that any of the

prior dismissals could not be counted under § 1915(g), does not appear to have been under imminent danger of serious physical injury at the time he filed this action, and did not otherwise show cause why this action could not be dismissed. For the foregoing reasons, Plaintiff's *in forma pauperis* application is **DENIED**. Docket No. 2. This action is **DISMISSED** for failure to pay the filing fee. The dismissal is without prejudice to Plaintiff asserting his claims in a new complaint for which he pays the full filing fee at the time he files that action.

The Clerk shall close the file.

IT IS SO ORDERED.

Dated: December 8, 2020



EDWARD M. CHEN
United States District Judge